UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

PLANO SYMPHONY ORCHESTRA Employer

and

Case 16-RC-10844

DALLAS/FORT WORTH PROFESSIONAL MUSICIANS ASSOCIATION, LOCAL 72-147 Petitioner

DECISION ON REVIEW AND ORDER

On August 7, 2008, the two sitting members of the Board issued an Order granting the Employer's Request for Review in part and denying review in part. The Petitioner filed a brief on review. Thereafter, on August 27, 2010, the Board affirmed the decision to grant review in part and affirmed the decision to deny the Request for Review in all other respects.

Having carefully considered the record with respect to the issue under review, including the Petitioner's brief on review, the Board affirms the Regional Director's finding that the musicians are statutory employees. In affirming the Decision, the Board finds that the case is substantially similar to *Lancaster Symphony Orchestra*, 357 NLRB No. 152 (2011). Accordingly, the case is remanded to the Regional Director for further appropriate action.

MARK GASTON PEARCE, CHAIRMAN

CRAIG BECKER,

MEMBER

Member Hayes, dissenting:

Consistent with my dissent in *Lancaster Symphony Orchestra*, 357 NLRB No. 152 (2011), I would reverse the Regional Director and find that the orchestra members are independent contractors.

BRIAN E. HAYES,

MEMBER

Dated, Washington, D.C., December 28, 2011.